

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: BAART Behavioral Health Services, Inc.,)	
Development of an Opiate Addiction Treatment)	Docket No. GMCB-011-17con
Clinic in St. Albans)	
_____)	

DECISION, ORDER, AND EMERGENCY CERTIFICATE OF NEED

Introduction

On May 25, 2017, the Green Mountain Care Board received a Letter of Intent and Request for Emergency Review from BAART Behavioral Health Services, Inc. regarding the development of an outpatient opiate addiction treatment clinic in St. Albans. The emergent circumstance supporting the application is the unexpected closure of Maple Leaf Treatment Center, leaving a shortage of addiction treatment services in Northwestern Vermont. As a result, approximately 170 individuals from the St. Albans area are traveling daily to either Newport or Burlington to seek methadone and detoxification services. The proposed facility will serve Franklin, Grand Isle and Addison counties.

The Board granted emergency review of the project pursuant to 18 V.S.A. § 9440 and GMCB Rule 4.000, § 4.303 on May 31, 2017. On June 13, 2017, the applicant filed a certificate of need (CON) application. In response to questions by the Board, the applicant provided additional materials completing its application. The application was closed on June 27, 2017.

For the reasons outlined below and subject to the conditions contained herein, we approve the application.

Jurisdiction

The Board has jurisdiction over the certificate of need process pursuant to 18 V.S.A. § 9375(b)(8). The proposed project, a health care facility as defined in 18 V.S.A. § 9434(8), is subject to certificate of need review because its annual operating expenses will exceed \$500,000 for at least one of the next two budgeted years. 18 V.S.A. § 9434(a)(5).

Findings of Fact

1. The applicant seeks to develop an outpatient opiate addiction treatment clinic in St. Albans for men and women age 18 years and older. The facility, d/b/a BAART Programs (BAART), will be located temporarily at 10 Crest Road while the applicant renovates the permanent location at 242 South Main Street location in St. Albans. Letter of Intent (LOI) at 1.
2. BAART's mission is to provide comprehensive Medication Assisted Treatment (MAT) for opioid use disorder to foster wellness, longevity and socially responsible behavior for the

individuals served. Letter of Intent (LOI) at 1. BAART has provided opioid addiction treatment for 40 years. For the past ten years, BAART has provided services in St. Johnsbury, Newport, and Berlin and currently provides opiate addiction treatment services to approximately 1,800 individuals across these three locations. *Id.*

3. BAART was recently awarded a grant by the Vermont Department of Health, Alcohol and Drug Abuse Programs (ADAP) to open an opiate addiction treatment HUB in St. Albans, providing the same services that it provides at the three other Vermont locations. The State has identified Franklin County as an area of high need for MAT services. LOI at 1. The grant will be used to financially assist uninsured and underinsured patients. Response to questions (Resp.) at 2-3.

4. Due to the lack of services in Franklin County, approximately 170 individuals from the St. Albans area travel daily to Newport or Burlington to seek methadone and detoxification services; some individuals spend five to six hours a day in combined travel and treatment time. LOI at 1. Approximately 150 of these individuals currently use Medicaid transportation services for their daily travel to the Newport or Burlington clinics. *Id.*; Resp. at 2.

5. Offering services at the St. Albans clinic will help eliminate excessive travel time for patients and their families, reduce wait lists at other facilities, help link patients with primary care and other providers, and reduce the number of opioid overdoses and emergency room visits. By implementing an appropriate higher level of service locally, the burden on existing providers will be reduced. Resp. at 2.

6. Services provided at the clinic are covered by Medicaid. The clinic accepts private insurance, has funding for the uninsured, and offers a sliding scale fee schedule for persons who self-pay. Resp. at 2.

7. The program will follow Vermont's evidence-based HUB and SPOKE model of services, operating as a specialty treatment center coordinating the care of individuals with complex opioid addictions and co-occurring opioid substance abuse and mental health conditions across the health and substance abuse treatment systems of care. App. at 3. This applicant will provide clinically appropriate referral services when a client leaves these services and will ensure that contact with clients continues. *Id.*

8. The project will offer daily dispensing of maintenance medication (methadone and buprenorphine) consistent with all federal and state regulations; health home services that include comprehensive care management, care coordination, health promotion, comprehensive transitional care, individual/family support and referral to community and social support services;* comprehensive assessment and treatment protocols; assessment and referral for services for tobacco use, and priority admissions of pregnant women, IV users, and persons recently released from residential treatment or incarceration. App. at 3.

* More information about health homes is available at <http://www.integration.samhsa.gov/integrated-care-models/health-homes>.

9. The clinic will be reviewed and licensed by ADAP every other year. The applicant will obtain National Committee for Quality Assurance certification to be identified as a health home provider. The federal Drug Enforcement Administration will certify the building, safe, alarm system, ordering of Schedule 2 and 3 medications, and the dispensing and storage of inventories kept on site. The clinic will hold a federal Opioid Treatment Program license through the Substance Abuse and Mental Health Services Association and maintain certification from the Commission on Accreditation of Rehabilitation Facilities. Resp. at 4.

10. As a regional treatment center, the HUB will serve as a health home as part of the Medicaid State Plan Amendment, and its services encompass all the medical, behavioral health and social supports and services needed by individuals with chronic conditions. The applicant will maintain an auditable electronic medical record that will document at least one coordinated health home service was provided each month to each Medicaid beneficiary. App. at 4.

11. The clinic will coordinate its services with medical providers, probation and parole, economic services, vocational rehabilitation and other service providers through regular communication with these entities. The treatment center director will be a participant in community health team meetings. App. at 3-4.

12. The applicant will collect and monitor data through the Substance Abuse Treatment Information System (SATIS) related to improvement of health care quality and outcomes in the areas of social supports, treatment retention, number of people served, reduction in the percent of people who need but do not receive specialty treatment for abuse or dependence on opioids in the last year, and referral and/or interim services for individuals on the wait list for services. App. at 1-2. BAART will maintain its electronic medical records using the same system used at its other three Vermont clinic locations. Resp. at 3.

13. The temporary and permanent clinic locations are located on public transportation routes. Patients who live outside of the route are eligible for non-medical Medicaid transportation through Green Mountain Transit Authority. Resp. at 3.

14. The applicant, which has a strong balance sheet and access to significant credit, will not borrow funds to finance the project. The \$750,500 project cost will be funded by an equity contribution by the applicant; operating costs will be funded by revenues from grants and payers. App. at Table 2, *Debt Financing Arrangement*. For ten years, BAART has successfully operated three other clinics in Vermont with positive cash flows. Resp. at 1, 3.

15. The Town of St. Albans has approved the applicant's request for a Conditional Use and Site Plan for a Social Services use of the 242 South Main Street property. Resp., Attachment B at 4-6.

16. The Vermont Department of Health has confirmed that the applicant's proposed staffing model, FTEs, and its per diem Medicaid/ADAP rate are reasonable and consistent with the other programs BAART operates in Vermont.

Conclusions of Law

Opioid addiction in Vermont impacts individuals and families from all walks of life and across all income levels. The Board recognizes, in granting emergency review to this application, that additional, effective treatment options are needed to address the addiction crisis. Based on the information provided by the applicant, we find that the proposed facility, at the proposed location, will help fill a gap in care and treatment for Vermonters in need. Importantly, the applicant has demonstrated that it can quickly operationalize the project and will provide critically needed addiction treatment in an area of the state that is currently without such services. We find the facts in this matter compelling, and therefore approve the application.

Vermont law outlines eight statutory criteria that must be met by the applicant before a CON will issue. First, the application must be consistent with the Health Resource Allocation Plan (HRAP) which identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. 18 V.S.A. § 9437(1). We conclude that this project is consistent with the relevant HRAP standards and therefore meets the first criterion. *See, e.g.*, HRAP Standard 1.6 (applicant must collect and monitor data relating to health care quality/outcomes); Standard 4.4 (applicant must show that the project is consistent with the Department of Health's recommendations concerning effective substance abuse treatment); Standard 4.6 (applicant must show how mental health, substance abuse and primary care will be integrated).

We next conclude that the applicant has satisfied the second criterion. 18 V.S.A. § 9437(2) (project cost must be reasonable, sustainable, not increase costs of care, and that there are no less expensive alternatives). The applicant has sufficient funding to begin operations immediately and will not require bank financing. Finding of Fact (Finding) ¶ 14. Because the applicant already operates three Vermont clinics which maintain positive balance sheets, we reasonably anticipate that this project will also be financially sound. Were the project to require additional funding, however, the applicant has demonstrated that it is sufficiently capitalized and can obtain financing to cover such costs. *Id.*

The project will not increase the costs of care. The clinic is an extension of an established program, and among other operational efficiencies among the affiliated locations, the project will not require development of a new electronic health record. Findings ¶ 2, 12. Individuals served by the clinic will be able to obtain treatment locally, save travel time and expense, reduce the burden on local providers, and curb the use of hospital emergency rooms. The clinic will work to link patients with primary care providers and other community resources. Findings ¶¶ 4,5,7,8. There is no less expensive alternative to implementation of this project, which will effectively and quickly begin providing needed treatment to patients in this underserved area of the State. We also note that no other entity has stepped forward to meet this crucial need.

The third criterion requires the applicant to demonstrate an "identifiable, existing, or reasonably anticipated need" for the project. 18 V.S.A. § 9437(3). Vermont, like many other states, is experiencing a health crisis stemming from substance abuse and addiction. According to the Vermont Department of Health, Vermont has one of the highest percentages of illicit drug abuse nationwide. *See* <http://healthvermont.gov/alcohol-drugs/by-substance> (website with links

to supporting data and reports). Without accessible treatment, Vermont cannot adequately address a problem that touches the lives of Vermonters across all walks of life and socio-economic backgrounds. We easily find that the applicant has satisfied this criterion.

The applicant has also demonstrated that it has met the fourth criterion. 18 V.S.A. § 9437(4) (project must improve the quality of health care or provide greater access for Vermonters, or both). The applicant's development of a fourth clinic in the state affords more Vermonters access to quality, evidence-based treatment, reduces the existing clinics' waiting lists, and obviates use of the emergency room as a treatment option. Findings ¶¶ 5,7.

The project will not have an undue adverse impact on other services provided by the applicant. *See* 18 V.S.A. § 9437(5). The applicant provides no other types of services in Vermont, and its other three facilities will no longer be required to stretch their slim resources to meet the need from another region of the state. The applicant has satisfied the fifth criterion.

The sixth statutory criterion, that the project serves the public good, has been met for all the reasons discussed throughout this decision. 18 V.S.A. § 9437(6). The applicant has also shown that it meets the seventh criterion; it is centrally located in St. Albans on a public transportation route. 8 V.S.A. §9437(7) (applicant must consider availability of transportation services); Finding ¶ 13.

The final criterion relates specifically to new health care technology projects, and to the extent it is relevant, we conclude it has been satisfied.

Based on the above, we approve the applicant's request for a certificate of need subject to the conditions outlined below.

CERTIFICATE OF NEED

Conditions:

1. The Certificate of Need shall be subject to the following terms and conditions:
 - A. The applicant shall comply with the scope of the project as described in the application and other materials it has submitted to the Board relevant to this project. This Certificate of Need is limited to the project and activities described therein.
 - B. The project as described in the application shall be fully implemented within ninety (90) days of the date of this Certificate of Need or the Certificate of Need shall become invalid and deemed revoked.
 - C. Noncompliance with any provision of this Certificate of Need or applicable ordinances, rules, laws and regulations shall constitute a violation of this Certificate of Need and may be cause for enforcement action pursuant to 18 V.S.A. §§ 9445, 9374(i), and any other applicable law.

- D. This Certificate of Need is not transferable or assignable and is issued only for the premises and entity named in the application.
- E. If the applicant contemplates or becomes aware of a potential or actual nonmaterial change, as defined in 18 V.S.A. § 9432(12), or a material change as defined in 18 V.S.A. § 9432(11), to the scope or cost of the project described in its application and as designated in this Certificate of Need, it shall file a notice of such change immediately with the Board. The Board shall review the proposed change and advise the applicant whether the proposed change is subject to review.
- F. The applicant shall file two implementation reports with the Board at three-month intervals, the first of which shall be filed three months after the date of this Certificate of Need. The implementation reports shall include information and analysis demonstrating that the project is in conformance with its scope as described in the application, and must identify any changes to the financing of the project.
- G. The Board may, after notice and an opportunity for the applicant to be heard, make such further orders as are necessary or desirable to accomplish the purposes of this Certificate of Need, and to ensure compliance with the terms and conditions of this Certificate of Need.
- H. All reports, notices, forms, information or submissions of any kind required to be submitted to the Board as a condition of this Certificate of Need shall be signed by the Applicant and verified by the chief executive officer, or by his or her designated representative.
- I. The conditions and requirements contained in this Certificate of Need shall remain in effect for the duration of the reporting period defined in paragraph F, above.

SO ORDERED.

Dated: June 28, 2017 at Montpelier, Vermont

s/ Cornelius Hogan)
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s/ Jessica Holmes)
)
s/ Robin Lunge)
)
s/ Kevin Mullin)
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s/ Maureen Usifer)

GREEN MOUNTAIN
CARE BOARD
OF VERMONT

Filed: June 28, 2017